

Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 51

[Docket Number FV-94-301]

Table Grapes (European or Vinifera Type); Grade Standards

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would revise the United States Standards for Grades of Table Grapes (European or Vinifera Type). The proposal would lower the present minimum bunch size as well as provide a separate tolerance for off-size bunches for the U.S. No. 1 Institutional grade only. It would also include a technical update which would correct the variety name "Superior Seedless" to "Sugraone."

DATES: Comments must be postmarked or courier dated on or before May 15, 1995.

ADDRESSES: Interested parties are invited to submit written comments concerning this proposal. Comments must be sent to the Fresh Products Branch, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, P.O. Box 96456, Room 2056 South Building, Washington, D.C. 20090-6456. Comments should make reference to the date and page number of this issue of the **Federal Register** and will be made available for public inspection in the above office during regular business hours.

FOR FURTHER INFORMATION CONTACT: Frank O'Sullivan, at the above address or call (202) 720-2185.

SUPPLEMENTARY INFORMATION: The Department of Agriculture (Department) is issuing this rule in conformance with Executive Order 12866.

Pursuant to the requirements set forth in the Regulatory Flexibility Act (5 U.S.C. 601 *et. seq.*), the Administrator of the Agricultural Marketing Service

(AMS) has determined that this action will not have a significant economic impact on a substantial number of small entities. This proposed rule for the revision of U.S. Standards for Grades of Table Grapes (European or Vinifera Type) will not impose substantial direct economic cost, recordkeeping, or personnel workload changes on small entities, and will not alter the market share or competitive position of these entities relative to large businesses.

This proposed rule has been reviewed under Executive Order 12778, Civil Justice Reform. This action is not intended to have retroactive effect. This proposed rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule. There are no administrative procedures which must be exhausted prior to any judicial challenge to the provisions of this rule.

Agencies periodically review existing regulations. An objective of the review is to ensure that the grade standards are serving their intended purpose, the language is clear, and the standards are consistent with AMS policy and authority.

The United States Standards for Grades of Table Grapes (European or Vinifera Type) was revised in April 1991. This revision established a new grade, U.S. No. 1 Institutional. This grade—used in sales to restaurant and other food service concerns—provides for grape lots which have very small bunch sizes. In recent years, new marketing and packaging techniques have developed very small, individual consumer size servings of grapes. Under previous grade requirements these "single serving" type grape bunches were too small to meet any U.S. grade. Therefore, the Department developed, at the request of the table grape industry, a separate grade reflecting today's modern marketing and packaging methods for the growing food service market while preserving the integrity of the "regular" fresh pack grades for grapes sold to consumers in supermarkets and other retail outlets. Thus, grades for two different types of pack could be contained in one standard allowing the grades to share common characteristics while at the same time maintaining grades for two distinct types (packs) of table grapes.

This proposed revision concerns only the institutional pack and not the "regular" fresh pack grades. Growers and shippers of the institutional pack type table grape represented by the California Grape and Tree Fruit League (CGTFL) have requested a revision to the institutional grade only, to address a new market which is emerging that would utilize extremely small clusters and/or bunches of grapes. According to the CGTFL, these buyers typically want a smaller grouping of grapes than is allowed under the current two ounce minimum bunch size requirement in the institutional grade. As an example, certain restaurant chains presently garnish some of their plates with institutional pack grapes, but must cut the existing small bunches to even smaller clusters of grapes (as little as two berries to a cluster) to fit their particular needs. Changing the minimum bunch requirement on the U.S. No. 1 Institutional grade would allow the industry to develop contract specifications and otherwise use the U.S. grade to satisfy that growing segment of the restaurant and food service industry market that utilizes grapes as a garnish.

Therefore, this proposal would change § 51.885 U.S. No. 1 Institutional to resemble § 51.884 (the format for U.S. No. 1 table) except for the elimination of straggleness requirements and trimming away of defective berries for bunches. The initial grade requirements will read as follows: "U.S. No. 1 Institutional' grapes must have no less than 95 percent of the containers in the lot legibly marked 'Institutional Pack.' Further requirements for this grade include grapes which consist of clusters and/or bunches of well developed grapes of one variety, except when designated as assorted varieties, which are at least fairly well colored, uniform in appearance when so specified in connection with the grade, and which meet the following requirements:"

As mentioned above, the requirements will be the same as for U.S. No. 1 table except paragraph (b)(1) "Not Straggly" and (g)(4) "Trimming away of defective berries" will be omitted. Also, paragraphs (h)(2) and (h)(2)(i) will include size requirements for clusters and/or berries:

"(2) For clusters/bunches:

(i) In this grade grapes shall consist of at least a two berry cluster ranging to

clusters and/or bunches of grapes not greater than five ounces in weight. See § 51.913."

The present § 51.913, Metric Conversion Table, will be redesignated § 51.914 and a new § 51.913 would be added to define a cluster. Since grape bunches are normally thought of as a series of grapes attached to small lateral stems which are in turn attached to a common main stem, the term bunch does not seem entirely appropriate when referring to two berries which share a common point of attachment. Therefore, for the purpose of the U.S. No. 1 Institutional grade only, § 51.913 shall define a cluster as "two or more berries sharing a common point of attachment."

In addition, Table Ia, Tolerances at Shipping Point for U.S. No. 1 Institutional Only, and Table IIa, Tolerances En Route or at Destination for U.S. No. 1 Institutional Only, would be added. The CGTFL requested that a separate tolerance of four percent be provided for offsize clusters or bunches to maintain the integrity of the grade in relation to size requirements. Presently, Tables I and II combine both the offsize and remaining grade requirements in one tolerance (eight percent for tolerances at shipping point, Table I, and 12 percent for tolerances en route or at destination, Table II). The corresponding new tables, Table Ia and IIa for U.S. No. 1 Institutional grade only, will maintain an eight and twelve percent tolerance, respectively, for remaining grade requirements but would include a separate tolerance of four percent for offsize clusters or bunches.

This proposed rule would also make a technical change which is unrelated to the U.S. No. 1 Institutional grade. Presently, §§ 51.882(i)(1)(ii) and 51.884(i)(1)(i) make reference to "Superior Seedless" as a varietal name. It has been brought to the attention of the Department by representatives of Sunworld International, Inc., California, that "Superior Seedless" is in fact, a registered trademark name and not the varietal name. "Sugraone" according to Sunworld, is the correct varietal name.

Research into this matter by the Department has shown that both the International Union for the Protection of New Varieties of Plants (UPOV) and the Office International de la Vigne et du Vin (OIV), the United States being a signatory of each, as well as the United Nations Economic Commission for Europe (ECE) have determined that "Sugraone" is the actual varietal designation while "Superior Seedless" represents a registered trademark.

Therefore, to maintain proper conformity with these designations, the words "Superior Seedless" will be removed in these sections and will be replaced with "Sugraone."

List of Subjects in 7 CFR Part 51

Agricultural commodities, Food grades and standards, Fruits, Nuts, Reporting and recordkeeping requirements, Vegetables.

PART 51—[AMENDED]

For reasons set forth in the preamble, it is proposed that 7 CFR Part 51 be amended as follows:

1. The authority citation for 7 CFR Part 51 continues to read as follows:

Authority: 7 U.S.C. 1622, 1624.

§ 51.882 [Amended]

2. Section 51.882(i)(1)(ii) is amended by removing the words "Superior Seedless" and adding in its place "Sugraone."

§ 51.884 [Amended]

3. Section 51.884(i)(1)(i) is amended by removing the words "Superior Seedless" and adding in its place "Sugraone."

4. Section 51.885 is revised to read as follows:

§ 51.885 U.S. No. 1 Institutional.

"U.S. No. 1 Institutional" grapes must have no less than 95 percent of the containers in the lot legibly marked "Institutional Pack." Further requirements for this grade include grapes which consist of clusters and/or bunches of well developed grapes of one variety, except when designated as assorted varieties, which are at least fairly well colored, uniform in appearance when so specified in connection with the grade, and which meet the following requirements:

- (a) Basic requirements for berries:
 - (1) Mature;
 - (2) Firm;
 - (3) Firmly attached to capstem;
 - (4) Not weak;
 - (5) Not materially shriveled at capstem;
 - (6) Not shattered;
 - (7) Not split or crushed;
 - (8) Not wet.
- (b) Basic requirements for stems: Not weak, or dry and brittle.
- (c) Berries free from:
 - (1) Decay;
 - (2) Waterberry;
 - (3) Sunburn.
- (d) Stems free from:
 - (1) Mold;
 - (2) Decay.
- (e) Berries not damaged by: Any other cause.

(f) Bunches not damaged by:

- (1) Shot berries;
- (2) Dried berries;
- (3) Other defective berries;
- (4) Any other cause.

(g) Stems not damaged by:

- (1) Freezing;
- (2) Any other cause.

(h) Size:

(1) For berries: Exclusive of shot berries and dried berries, 75 percent, by count, of the berries on each bunch shall have the minimum diameters indicated for varieties as follows:

(i) Thompson Seedless, Perlette, Delight, Beauty Seedless, Sugraone, Flame Seedless and other seedless varieties nine-sixteenths of an inch.

(ii) Other varieties ten-sixteenths of an inch.

(2) For clusters/bunches:

(i) In this grade grapes shall consist of at least a two berry cluster ranging to clusters and/or bunches of grapes not greater than five ounces in weight. See Section 51.913.

(ii) For tolerances see § 51.886.

5. Section 51.886 is amended by revising paragraph (b) and adding a new paragraph (c) and Tables Ia and IIa to read as follows:

§ 51.886 Tolerances.

(a) * * *

(b) In order to allow for variations incident to proper grading and handling in each of the foregoing grades except U.S. No. 1 Institutional, tolerances, by weight, other than for maturity, are provided as set forth in Tables I and II of this section.

* * * * *

(c) In order to allow for variations incident to proper grading and handling in the U.S. No. 1 Institutional grade only, tolerances, by weight, other than for maturity, are provided as set forth in Tables Ia and IIa of this section.

TABLE Ia.—TOLERANCES AT SHIPPING POINT FOR U.S. NO. 1 INSTITUTIONAL GRADE ONLY¹
[Percent]

| Factor | U.S. No. 1 institutional |
|---|--------------------------|
| (A) For clusters/bunches failing to meet color requirements | 10 |
| (B) For clusters/bunches failing to meet requirements for minimum diameter of berries | 10 |
| (C) For offsize clusters/bunches | 4 |
| (D) For clusters/bunches and berries failing to meet the remaining requirements for the grade | 8 |
| Including in (D): | |
| (a) For Serious damage and, including in (a) | 2 |
| (i) For Decay | 1/2 of 1 |

TABLE IIa.—TOLERANCES EN ROUTE OR AT DESTINATION FOR U.S. NO. 1 INSTITUTIONAL ONLY

| Factor | U.S. No. 1 institutional |
|---|--------------------------|
| (A) For clusters/bunches failing to meet color requirements | 10 |
| (B) For clusters/bunches failing to meet requirements for minimum diameter of berries | 10 |
| (C) For offsize clusters/bunches | 4 |
| (D) For clusters/bunches and berries failing to meet the remaining requirements for the grade | 12 |
| Including in (D): | |
| (a) For permanent defects | 8 |
| (b) For serious damage and, including in (b) | 4 |
| (i) For serious damage by permanent defects | 2 |
| (ii) For decay | 1 |

¹Shipping point, as used in these standards, means the point of origin of the shipment in the producing area or at port of loading for ship stores or overseas shipment, or, in the case of shipments from outside the continental United States, the port of entry into the United States.

§ 51.913 [Redesignated as § 51.914]

6. In Part 51, Subpart—United States Standards for Grades of Table Grapes (European or Vinifera Type), § 51.913 is redesignated as § 51.914 and a new § 51.913 is added to read as follows:

§ 51.913 Clusters.

“Clusters” as used in these standards in reference to the U.S. No. 1 Institutional grade only shall be defined as two or more berries sharing a common point of attachment.

Dated: March 9, 1995.

Lon Hatamiya,
Administrator.

[FR Doc. 95-6367 Filed 3-14-95; 8:45 am]

BILLING CODE 3410-02-P

Rural Housing and Community Development Service

Rural Business and Cooperative Development Service

Rural Utilities Service

Consolidated Farm Service Agency

7 CFR Part 1940

RIN 0575-AB66

Environmental Program

AGENCIES: Rural Housing and Community Development Service, Rural Business and Cooperative Development Service, Rural Utilities Service, and Consolidated Farm Service Agency, USDA.

ACTION: Proposed rule.

SUMMARY: The Agencies propose to revise their Environmental regulation. This action is necessary to streamline the environmental review process. The intended effect of this action is to provide guidance on sending individual copies of notices to affected property owners when utility systems are involved.

DATES: Comments must be received on or before May 15, 1995.

ADDRESSES: Submit written comments in duplicate to the office of the Chief, Regulations Analysis and Control Branch, Rural Economic and Community Development, U.S. Department of Agriculture, Room 6348, South Agriculture Building, 14th Street and Independence Avenue SW., Washington, D.C. 20250-0700.

FOR FURTHER INFORMATION CONTACT:

Donald O. Lander, Senior Environmental Protection Specialist, Environmental Support Branch, Program Support Staff, Rural Housing and Community Development Service, U.S. Department of Agriculture, Room 6309, South Agriculture Building, 14th Street and Independence Avenue SW., Washington, D.C. 20250-0700; telephone (202) 720-9619.

SUPPLEMENTARY INFORMATION:

Classification

We are issuing this proposed rule in conformance with Executive Order 12866, and the Office of Management and Budget (OMB) has determined that it is a “significant regulatory action”.

Intergovernmental Consultation

This rule affects the following Agency programs as listed in the Catalog of Federal Domestic Assistance (CFDA):

- 10.760—Water and Waste Disposal Systems for Rural Communities
- 10.762—Solid Waste Management Grants
- 10.763—Emergency Community Water Assistance Grants
- 10.766—Community Facilities Loans
- 10.770—Water and Waste Disposal Loans and Grants (Section 306C)

Executive Order 12372 requires intergovernmental consultation with State and local officials. Of the FmHA programs affected by this rule, the following are subject to the provisions of Executive Order 12372: 10.760, 10.763, 10.766, and 10.770.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (5 U.S.C. 601-602), the undersigned has determined and certified by signature of this document that this rule will not have a significant

economic impact on a substantial number of small entities since this rulemaking action does not involve a new or expanded program. Therefore a regulatory flexibility analysis was not prepared.

Civil Justice Reform

This document has been reviewed in accordance with Executive Order 12778. It is the determination of the Agencies that this action does not unduly burden the Federal Court System in that it meets all applicable standards provided in Section 2 of the Executive Order.

Environmental Impact Statement

This document has been reviewed in accordance with 7 CFR part 1940, subpart G, “Environmental Program.” The Agencies have determined that this action does not constitute a major Federal action significantly affecting the quality of the human environment, and in accordance with the National Environmental Policy Act of 1969, Pub. L. 91-190, an Environmental Impact Statement is not required.

Paperwork Reduction Act

The information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB control number 0575-0094 in accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3507). This proposed rule does not revise or impose any new information collection or recordkeeping requirement from those imposed by OMB.

Background

Section 1940.331 describes the public notice requirements for actions undergoing an environmental review by the Agencies.

In § 1940.331(b)(4) there has been confusion about identifying the names and mailing addresses of individual property owners who may be affected by a project when large areas of important land resources may be affected. This confusion has caused delays and added expense in the preparation and review of Class I and Class II environmental assessments for those projects.

The regulation is proposed to be revised to allow the State Environmental Coordinator to select the methods for notifying affected property owners, and to provide examples of some other methods that may be considered.